

HOUSE No. 739

By Mr. Eldridge of Acton, petition of James B. Eldridge and others for legislation to provide public notice and input to plans for significant physical alterations to state parks and other public natural resource lands. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PETITION OF:

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Robert S. Creedon, Jr.	Steven J. D'Amico
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In the Year Two Thousand and Seven.

AN ACT TO PROVIDE PUBLIC INPUT INTO CHANGES TO PUBLIC LANDS AND BUILDINGS LOCATED THEREON.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws of the Commonwealth of Massachusetts are
2 hereby amended by inserting after Chapter 132B the following
3 chapter:—

4 **Chapter 132C.**
5 **PUBLIC NOTICE AND INPUT FOR CHANGES IN CERTAIN**
6 **PUBLIC LANDS AND BUILDINGS.**

1 SECTION 1. Purpose.
2 The purpose of this chapter is to provide for public notice and
3 input to plans for significant physical alterations to state parks and
4 other public natural resource lands.

1 SECTION 2. Definitions.

2 Unless the context clearly requires otherwise, when used in this
3 chapter, the following words and phrases shall have the following
4 meanings:—

5 “Abutter,” owner of any property within one half mile from the
6 closest boundary of an affected district.

7 “Affected district,” state land district in which the regulated
8 activity is to occur.

9 “Regulated activity,” any of the following, other than routine
10 maintenance and removal of dead trees or trees that pose an immi-
11 nent threat to the safety of persons:—

12 a.) Removal of more than one half a contiguous acre of trees,
13 brush, or any plant material.

14 b.) Expansion or creation of paved areas or the placement of per-
15 meable, semi-permeable or non-permeable materials.

16 c.) Removal of more than 10 trees each of more than 8” diameter,
17 measured 4.5 feet above the ground, within any contiguous area of
18 five acres or less of any shape, provided that the area is no less than
19 ten feet across at its narrowest point.

20 d.) Removal of more than 50 trees each of more than 8” diameter,
21 measured 4.5 feet above the ground, in any state land district.

22 e.) Construction or expansion of any structure, including, but not
23 limited to, any building, storage facility, tower, or shelter, covering
24 an area in excess of 24 square feet on, above, or below any land or
25 water.

26 f.) Clearing, grading, or construction for access roads or other
27 facilities or areas in connection with any of the above.

28 “State agency,” Commonwealth of Massachusetts or any depart-
29 ment or agency thereof or any board, authority, or public entity cre-
30 ated thereby, not including municipalities and towns.

31 “State land district” any land area owned or under the control a
32 state agency, including but not limited to state parks, forests,
33 reserves, recreation areas, parkways, watershed areas, or beaches.

1 SECTION 3. Public hearing.

2 No state agency may perform, authorize, grant a permit for, or
3 otherwise enable any regulated activity on a state land district unless
4 said agency has held, no less than 30 days prior to commencement
5 of any part of the regulated activity, one or more public hearings on

6 the proposed regulated activity at a time or times and location or
7 locations convenient to the abutters of the affected district. Where
8 more than one state agency is involved the agencies may hold a joint
9 hearing or hearings. The Executive Office of Environmental Affairs
10 shall promulgate rules and regulations for said public hearings.

1 SECTION 4. Public notice.

2 The Executive Office of Environmental Affairs shall promulgate
3 rules and regulations as necessary to effect the requirements set forth
4 herein.

5 No public hearing under Section 3 may be held nor shall be valid
6 unless preceded by the public notices described in this section and
7 listed below. Each notice shall state the purpose, general description,
8 affected district, timing, and likely duration of the proposed regu-
9 lated activity; the location (including a map or sketch of the general
10 area showing location of the proposed regulated activity) in suffi-
11 cient detail and clarity that public citizens can find the site of the
12 proposed regulated activity; the date, time, and place of the public
13 hearing; the subject matter of the hearing; the nature of the action or
14 relief requested, if any; the place where the full plan of the proposed
15 regulated activity and any application may be inspected; the case or
16 other identification number, if any, of the application or proposed
17 regulated activity; the place where written comments may be
18 directed; the phone number or numbers of the state agency or agen-
19 cies contact person or persons where further information may be
20 obtained. Where the regulated activity involves cutting or removal
21 of any tree more than 8" diameter, measured 4.5 feet above the
22 ground, the public notice shall indicate the type and size of tree, the
23 notice shall be made during the months of June, July, or August, and
24 the notice shall be posted upon the tree as well as at the locations
25 listed below. The state agency or agencies holding the hearing shall
26 put in place all postings and public notification panels no less than
27 30 days prior to the hearing and shall maintain said postings and
28 panels continuously in legible and readable form, including replace-
29 ment thereof as necessary, until the time of the hearing.

30 a.) Posting in two or more public places in each town or munici-
31 pality within which any or all of the affected district is located,
32 regardless of whether the physical site of the regulated activity is
33 within the town or municipality.

34 b.) Publication in a newspaper of general circulation in each town
35 or municipality covered by section 4, paragraph a, once in each of
36 two successive weeks, the first publication to be not less than seven
37 days before the day of the hearing.

38 c.) Posting of the proposed regulated activity on the website of the
39 Executive Office of Environmental Affairs.

40 d.) Posting in a prominent place at the building or facility in the
41 affected district most frequented by the public, or, if there is no such
42 appropriate building or facility, at the nearest state or public building
43 or facility to the location where the proposed regulated activity is to
44 occur.

45 e.) In the case of state parks, forests, and recreation areas, and
46 other state land districts frequented by the public, posting on appro-
47 priate public notification boards maintained on the premises.

48 f.) Installation of public notification panel or panels at all public
49 entrances, including roads, sidewalks, pathways, and trail heads, to
50 the affected district, and along parkways or other roads adjacent to
51 the affected district at intervals of no less than one mile. Panels shall
52 be securely mounted, clearly visible from the relevant public way,
53 and contain a heading legible and readable from the relevant public
54 way, proclaiming the subject matter of the notice.

55 g.) Certified mail or hand delivery to each abutter of record on
56 file with the assessors of the relevant municipality or town.

1 SECTION 5. Injunctive relief.

2 If a state agency commences or permits the commencement of a
3 regulated activity without having complied with sections 3 and 4 in
4 all particulars, any citizen, corporation, association, town, or munici-
5 pality residing, incorporated, organized, or chartered, as the case
6 may be, in Massachusetts shall be entitled, upon presentation of evi-
7 dence of the state agency's failure to so comply to a court of compe-
8 tent jurisdiction, to injunctive relief and a cease and desist order
9 against said state agency from said court.